HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.850 of 2007

Dated:02.03.2007

Between:

P.Venkat Rao.

…Petitioner

and

The District Collector and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.850 of 2007

ORDER:

The petitioner herein is a resident of Mahabubnagar. He is an Ex-Serviceman. He has statedly served the Indian Air Force in Nagaland and other places. He made an application to the first respondent through Air Force Authorities for assignment of land. By proceedings dated 11.09.1985, he was assigned land admeasuring Acs.5.00 in Survey No.25/1 situated at Yenugonda Village within the peripheral limits of Mahabubnagar Town. The petitioner allegedly brought the land into cultivation and was in possession of the same. He also obtained Pattadar Pass Books and Title Deeds. In 2003, the Mandal Revenue Officer, third respondent herein, initiated action for cancellation of assignment on the allegation that the petitioner and other assignees contravened the terms/conditions of assignment. A show cause notice was issued on 25.03.2003. The petitioner submitted explanation on 24.04.2003. Not satisfied with the explanation, the third respondent by proceedings No.C/17244/2002, dated 05.06.2003, ordered resumption of the land to the Government. Be it also noted that the said order was passed as instructed by the District Collector. The petitioner asserts that he was not aware of the orders nor the same was communicated to him. On 13.11.2006, it is

alleged, the Officials from the Office of the third respondent visited the petitioner's land and asked him to go over to the Office. He went there on 14.11.2006, when he was informed about the orders of the Mandal Revenue Officer dated 05.06.2003. This is assailed in the Writ Petition.

The matter was heard at the preliminary stage on 11.01.2007 when this Court ordered *status quo*. Again when the matter was listed before this Court on 25.01.2007, having regard to the fact that the resumption orders were passed on 05.06.2003, this Court enquired with the learned Counsel for the petitioner regarding the explanation for delay in filing the Writ Petition. The attention of this Court was then invited to a letter bearing No.B/12294/2006, dated 06.09.2006, issued by the present Mandal Revenue Officer to the Revenue Divisional Officer, Mahabubnagar, wherein it is stated that the impugned proceedings dated 05.06.2003 was not served on the petitioner. Therefore, this Court directed the learned Assistant Government Pleader to file counter affidavit in the matter.

The Mandal Revenue Officer has filed a counter affidavit tracing the events leading to passing of the impugned order on 05.06.2003. The allegation that the impugned order is not served on the petitioner is not being denied, though it is stated that the land is a hillock and full of boulders and has not been cultivated by the petitioner except raising few coconut trees.

The learned Counsel for the petitioner primarily submits that after receiving the show cause notice, the petitioner submitted explanation on 24.04.2003, but the same was not at all been considered by the third respondent while passing orders in June 2003. A perusal of the impugned order would certainly support the contention of the learned Counsel for the petitioner. The third respondent except stating, "explanation submitted by the assignee is not convincing", the contentions raised were not at all adverted to. Be that as it is, curiously, though the order was passed on 05.06.2003 by the then Mandal Revenue Officer, the same was not communicated. Dealing with this aspect of the matter, the Mandal Revenue Officer in letter dated 06.09.2006 addressed to the Revenue Divisional Officer states as under.

> The Collector further ordered that since the land has become more valuable and precious it may be preserved by fencing for future needs of Govt to house the Govt offices. It

> is also further ordered that the entire un assigned Govt lands of Yenugonda village be resurveyed and protected by fencing the land and entered in P.O.B. register.
>
> In compliance to the orders of the Collector Mahabubnagar the Mandal Revenue Officer has issued notices vide ref No.C/17244/2002, Dated 12.12.2002 and Dt.25.03.2003 which were served on the assignees and acknowledgement is kept in the file. The Mandal Revenue Officer not being convinced with the replies submitted by the assignees has passed cancellation orders vide ref No.C/17244/2002, dt.05.06.2003, but for the reasons not known the orders could not be served on assignees and kept in the file un served as is evident from the record available in the office.

It is well settled that an order passed by a public authority, which remains uncommunicated to the person who is affected by such order or who is burdened with the order, is no order at all in the eye of law. Therefore, as on today no such order has been validly passed insofar as the petitioner is concerned. For this reason alone, the impugned order is liable to be set aside. Further, this Court observes that the then Mandal Revenue Officer, as observed by the Mandal Revenue Officer in the letter dated 06.09.2006, did not record any reasons as to why the order dated 05.06.2003 was not served on the assignee. This needs an enquiry by the District Collector, as there was culpable inadvertence on the part of the Mandal Revenue Officer in not communicating the order. Appropriate action may be initiated by the District Collector keeping the principle of purity of administration.

In the result, for the above reasons, the Writ Petition is allowed, and the impugned order of the Mandal Revenue Officer bearing No.C/17244/2002, dated 05.06.2003, is set aside. Liberty is, however, given to the third respondent to initiate action against the petitioner if there is any violation of the conditions of assignment in accordance with law. The respondents shall pay the costs of this Writ Petition to the petitioner.

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(V.V.S.RAO, J)

02.03.2007

Note: Issue C.C in one week.

B/o.

vs